



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

ANILCA Implementation Program

Office of Project Management and Permitting

550 West 7th Avenue, Suite 1430
Anchorage, AK 99501-3561
Main: 907.269-7529
Fax: 907-269-5673

May 29, 2019

Madonna L. Baucum,
Service Information Collection Clearance Officer
US Fish and Wildlife Service
MS: BPHC, 5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: OMP Control Number 1018-0162

Dear Ms. Baucum:

The State of Alaska reviewed the Federal Register Notice regarding Agency Information Collection Activities; Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands.¹ The following comments represent the consolidated views of state resource agencies.

This information collection request applies to non-federal oil and gas operations on refuge lands pursuant to 50 CFR Parts 28 and 29. These regulations do not apply to refuges in Alaska.²

The Alaska exemption is based on separate statutory authority provided under the Alaska National Interest Lands Conservation Act (ANILCA), which pertains to non-federal oil and gas activities occurring on state and private inholdings within the boundaries of conservation system units, including national wildlife refuges. As recently affirmed by the Supreme Court in *Sturgeon v. Frost*,³ ANILCA Section 103(c) prohibits the application of refuge regulations to state and private inholdings.⁴ Department of Interior ANILCA Title XI regulations at 43 CFR 36 dictate the process and information requirements related to rights of access established under ANILCA Section 1110(b), including the requirement to submit authorization requests on a SF299 form, not Form 3-2469, to which this information collection request applies.

This agency information collection request therefore cannot be implemented in Alaska and we request that Form 3-2469 explicitly state that it is not applicable in Alaska.

¹ 84 FR 15628, dated April 16, 2019

² "We, the U.S. Fish and Wildlife Service (Service), are finalizing regulations governing the exercise of non-Federal oil and gas rights **outside of Alaska**...." (Emphasis added, 81 FR 79948, dated November 14, 2016)

³ 139 S. Ct. 1066 (2019).

⁴ While the *Sturgeon v. Frost* ruling was in response to regulations promulgated by the National Park Service, ANILCA Section 103(c) applies broadly to all conservation system units designated under ANILCA, including National Wildlife Refuges in Alaska.

Thank you for this opportunity to comment. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Magee". The signature is fluid and cursive, with the first letter of the last name being a large, stylized 'M'.

Susan Magee
ANILCA Program Coordinator